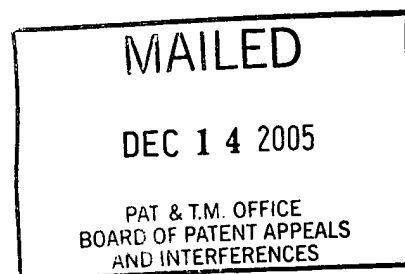


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN E. LIEBENDORFER

Application No. 09/910,655



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on October 25, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On October 30, 2003, appellant filed an Information Disclosure Statement (IDS). It is not clear from the record whether the examiner considered the IDS submitted (i.e., the article, "Photon") or whether the examiner notified appellant of why the submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

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In addition, the examiner's answer mailed on July 5, 2005 is not in compliance with the requirements of 37 CFR § 41.37. The following headings need to be corrected in order to be consistent with the appeal brief filed April 14, 2005:

Summary of the Claimed Subject Matter - replacing the Summary of the Invention section in paragraph (5).

Evidence Relied Upon - replacing the Prior Art of Record section in paragraph (9).

Acknowledgment of the Related Proceedings and Evidence appendices, if applicable.

A substitute examiner's answer that is in compliance with 37 CFR § 41.37 is required.

Accordingly, it is


ORDERED that this application be returned to the examiner to: 1) for consideration of the Information Disclosure Statement filed October 30, 2003; 2) for appropriate notification by the examiner to appellant of such consideration; 3) file a revised examiner's answer in response to the appeal brief and in

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accordance with the new rules effective September 13, 2004; and
4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____


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